THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26592 of 2006

22-12-2006

Between:

Smt.Ambika Burman

..... PETITIONER

AND

The Government of A.P., rep. by its Secretary, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.26592 of 2006

ORDER:

It is alleged that the petitioner, having purchased plot bearing No.58 admeasuring about 444.44 square yards/371.55 square meters in survey No.74/9 situated in the layout of Sevamandal Society Limited, Mahindra Hills, Secunderabad, from Smt. Anita Subberwal, who executed sale deed, dated 26-12-2005, presented the sale deed for registration before the third respondent, who though initially received the document, subsequently informed that in view of issuance of G.O.Ms.No.365 dated 30-05-2000 by the Government in purported exercise of power under Section 22-A of the Registration Act, 1908 (the Registration Act, for brevity) as amended by the Registration (Andhra Pradesh Amendment) Act, 1999, the document presented by her cannot be registered and kept the document pending. Hence, the present Writ Petition.

In **State of Rajasthan v. Basant Nahata**[1], the Supreme Court struck down the provision in Registration Act as amended by the State of Rajasthan as *ultra vires.* Following the same, a Division Bench of this Court in its judgment dated 07-12-2005 in W.P.No.14099 of 2003 and batch struck down Section 22-A of the Registration Act as applicable in State of Andhra Pradesh. It is brought to the notice of this Court that Special Leave Petition filed by the State Government against the said judgment was also dismissed by the Supreme Court on 11-08-2006, and therefore, the impugned action cannot be sustained. It is also brought to the notice that this Court by common order dated 22-06-2006 in W.P.No.6925 of 2000 and batch, while allowing the writ petitions, has already quashed G.O.Ms.No.365, dated 30-05-2000.

Following the same, this Writ Petition is disposed of directing the third respondent or any other Registering Officer to accept the document presented by the petitioner and to consider the same for registration. Be it noted, if for any reason, the document cannot be registered, it is incumbent on the part of the Registering Officer to record and furnish reasons under Section 71 of the Registration Act to the petitioner.

Before parting with this case, having regard to the submission of the learned Assistant Government Pleader for Revenue (General-T) that the Government filed a Land Grabbing Case before the Special Court constituted under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, is pending, this Court observes that it shall be open to the District Collector, Hyderabad, and other revenue officials to approach the Special Court and obtain appropriate orders against the petitioner, if so advised.

The Writ Petition, subject to the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

22.12.2006

Note:Furnish C.C. in one week.

(B/o)

GJ

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[1] (2005) 12 SCC 77 = 2005 AIR SCW 4456